

**James P. Laurick, OSB No. 821530**  
[jlaurick@kilmerlaw.com](mailto:jlaurick@kilmerlaw.com)  
**Graham M. Sweitzer, OSB No. 025866**  
[gsweitzer@kilmerlaw.com](mailto:gsweitzer@kilmerlaw.com)  
KILMER, VOORHEES & LAURICK, P.C.  
732 N.W. 19th Avenue  
Portland, Oregon 97209-1302  
Telephone: (503) 224-0055  
Fax: (503) 222-5290

Attorneys for World Fuel Services, Inc.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re:  EVERGREEN VINTAGE AIRCRAFT, INC.,  Debtor.	Bankr. Case No. 14-36770-rld11
EVERGREEN VINTAGE AIRCRAFT, INC.,  Plaintiff,  v.  WORLD FUEL SERVICES, INC.,  Defendant.	Adv. Proc. No. 15-03078-rld  <b>ANSWER AND AFFIRMATIVE DEFENSES OF WORLD FUEL SERVICES, INC. TO EVERGREEN VINTAGE AIRCRAFT, INC.'S ADVERSARY COMPLAINT</b>

World Fuel Services, Inc. ("World Fuel") responds to the adversary complaint filed by  
Evergreen Vintage Aircraft, Inc. as follows:

**JURISDICTION AND VENUE**

1. For answer to paragraph 1, World Fuel admits this Court has jurisdiction over this adversary proceeding.
2. For answer to paragraph 2, World Fuel admits that venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

3. Paragraph 3 refers to Plaintiff's consent to a final order or judgment in this Court and, therefore, no answer from World Fuel is necessary. Only to the extent an answer is deemed necessary, World Fuel lacks sufficient information to admit or deny the allegations in paragraph 3 and, therefore, denies the same.

### **THE PARTIES**

4. For answer to paragraph 4, World Fuel admits that Plaintiff is an Oregon corporation with assets primarily located in McMinnville, Yamhill County, Oregon, and that it filed a petition under Chapter 11 of the United States Bankruptcy Code on December 11, 2014. World Fuel lacks sufficient information to admit or deny the remaining allegations in paragraph 4 and, therefore, denies the same.

5. World Fuel denies that it is a Florida corporation, but admits it is in the business of selling aviation fuel and related services.

### **GENERAL ALLEGATIONS**

6. For answer to paragraph 6, World Fuel admits that at all material times it sold fuel and provided services to, among other entities, Evergreen International Airlines, Inc.

7. For answer to paragraph 7, World Fuel admits that a copy of a Blanket Payment and Performance Guaranty is attached to the Complaint as Exhibit 1, and that the document speaks for itself.

8. For answer to paragraph 8, World Fuel admits that a copy of an Aircraft Chattel Mortgage and Security Agreement is attached to the Complaint as Exhibit 2, and that the document speaks for itself.

9. For answer to paragraph 9, World Fuel admits that an Aircraft Security Agreement is attached to the Complaint as Exhibit 3, and that the document speaks for itself.

10. For answer to paragraph 10, World Fuel admits that it filed an action in the Circuit Court for the State of Oregon, Yamhill County Case No. 13CV07910, and that the allegations raised in its Complaint therein speak for themselves.

11. For answer to paragraph 11, World Fuel admits that a copy of a prejudgment writ of attachment is attached to the Complaint as Exhibit 4, and that the document speaks for itself.

12. For answer to paragraph 12, World Fuel admits that documents relating to its recorded claim are attached to the Complaint as Exhibit 5, and that the documents speak for themselves.

13. World Fuel denies paragraph 13.

14. For answer to paragraph 14, Word Fuel admits that documents relating to a Sherriff's Return of Writ of Attached are attached to the Complaint as Exhibit 6, and that the documents speaks for themselves.

15. World Fuel admits paragraph 15.

#### **FIRST CLAIM FOR RELIEF**

Avoidance and Recovery of Fraudulent Transfers and Obligations

11 U.S.C. § 544(b)

16. For answer to paragraph 16, World Fuel incorporates by reference its responses to paragraphs 1 through 15.

17. World Fuel denies paragraph 17.

18. World Fuel lacks sufficient information to admit or deny paragraph 18, and therefore denies the same.

19. World Fuel lacks sufficient information to admit or deny paragraph 19, and therefore denies the same.

20. World Fuel denies paragraph 20.

#### **SECOND CLAIM FOR RELIEF**

Avoidance of Fraudulent Transfer

11 U.S.C. § 548(a)(1)(B)

21. For answer to paragraph 21, World Fuel incorporates by reference its responses to paragraphs 1 through 20.

22. World Fuel denies paragraph 22.

**THIRD CLAIM FOR RELIEF**  
Avoidance of Unperfected Claims of Lien  
11 U.S.C. § 544

23. For answer to paragraph 23, World Fuel incorporates by reference its responses to paragraphs 1 through 22.

24. World Fuel denies paragraph 24.

25. World Fuel denies paragraph 25.

26. World Fuel denies paragraph 26.

**FOURTH CLAIM FOR RELIEF**  
Determination of Extent, Validity and Priority of Lien

27. For answer to paragraph 27, World Fuel incorporates by reference its responses to paragraphs 1 through 26.

28. World Fuel denies paragraph 28.

29. World Fuel denies paragraph 29.

**FIFTH CLAIM FOR RELIEF**  
Avoidance of Preferential Transfers  
11 U.S.C. § 547

**COUNT I**  
(Regarding Levied Property)

30. For answer to paragraph 30, World Fuel incorporates by reference its responses to paragraphs 1 through 29.

31. For answer to paragraph 31, World Fuel admits only that ORCP 84 speaks for itself.

32. World Fuel lacks sufficient information to admit or deny paragraph 32, and therefore denies the same.

33. World Fuel lacks sufficient information to admit or deny paragraph 33, and therefore denies the same.

34. World Fuel lacks sufficient information to admit or deny paragraph 34, and therefore denies the same.

35. World Fuel denies paragraph 35.

**COUNT II**  
(Regarding the Real Property)

36. For answer to paragraph 36, World Fuel incorporates by reference its responses to paragraphs 1 through 35.

37. For answer to paragraph 37, World Fuel admits only that ORCP 84 speaks for itself.

38. World Fuel admits paragraph 38.

39. World Fuel lacks sufficient information to admit or deny paragraph 39, and therefore denies the same.

40. World Fuel lacks sufficient information to admit or deny paragraph 40, and therefore denies the same.

41. World Fuel lacks sufficient information to admit or deny paragraph 41, and therefore denies the same.

42. World Fuel denies paragraph 42.

43. Except as expressly admitted above, World Fuel denies each and every allegation in Evergreen Vintage Aircraft, Inc.'s Complaint, and the whole thereof.

**AFFIRMATIVE DEFENSES**

World Fuel alleges the following affirmative defenses to Plaintiff's alleged claims for relief:

**FIRST AFFIRMATIVE DEFENSE**  
**(Failure to State Claims)**

Without admitting the allegations of the Complaint, World Fuel alleges and asserts that the Complaint and every cause of action alleged therein fails to set forth facts sufficient to state a cause of action upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**  
**(Lack of Intent)**

Without admitting the allegations of the Complaint, World Fuel alleges and asserts that any transfer to World Fuel was not made with actual intent to hinder, delay, or defraud any entity to which Evergreen Vintage Aircraft, Inc. was or became indebted.

**THIRD AFFIRMATIVE DEFENSE**  
**(Equivalent Value)**

Without admitting the allegations of the Complaint or that Plaintiff has suffered any damages, World Fuel alleges and asserts by way of affirmative defense that Evergreen Vintage Aircraft, Inc. received reasonably equivalent value in exchange for any transfer to World Fuel.

**FOURTH AFFIRMATIVE DEFENSE**  
**(Consideration)**

Without admitting the allegations of the Complaint, World Fuel alleges and asserts that any transfer to World Fuel was an arm's length, good faith transaction whereby Evergreen Vintage Aircraft, Inc. received full and fair consideration for the transfer, and World Fuel did not have knowledge at the time of Evergreen Vintage Aircraft, Inc.'s alleged insolvency or that Evergreen Vintage Aircraft, Inc. had any purpose or intent to defeat or defraud other creditors.

**FIFTH AFFIRMATIVE DEFENSE**  
**(Good Faith)**

Without admitting the allegations of the Complaint, World Fuel alleges and asserts that any transfer to World Fuel was taken for value, including satisfaction of a present and antecedent debt, in good faith and without World Fuel's knowledge of the alleged avoidability of any such transfer.

**SIXTH AFFIRMATIVE DEFENSE**  
**(Replacement Lien)**

Without admitting the allegations of the Complaint, World Fuel alleges and asserts that to the extent any transfer to World Fuel is otherwise avoidable, World Fuel gave value for the transfer in good faith and, therefore, World Fuel has a lien on, or may retain any interest

transferred, or may enforce any obligation incurred to the extent of the value so given by World Fuel to Evergreen Vintage Aircraft, Inc. in exchange for the transfer.

**SEVENTH AFFIRMATIVE DEFENSE**  
**(Statute of Limitations)**

Without admitting the allegations of the Complaint, World Fuel alleges and that Plaintiff is not entitled to relief to the extent that the causes of action and/or the claims for relief contained in the Complaint are barred by the applicable statute of limitations.

**EIGHTH AFFIRMATIVE DEFENSE**  
**(Estoppel)**

Without admitting the allegations of the Complaint, World Fuel alleges and asserts by way of affirmative defense that Plaintiff is estopped from asserting any claim or demand, if any ever existed, against World Fuel.

**NINTH AFFIRMATIVE DEFENSE**  
**(Waiver)**

Without admitting the allegations of the Complaint, World Fuel alleges and asserts that Plaintiff has waived any claim or demand, if any ever existed, against World Fuel.

**TENTH AFFIRMATIVE DEFENSE**  
**(Failure to Mitigate)**

Without admitting the allegations of the Complaint, World Fuel alleges and that if Plaintiff suffered any loss or damage, such loss or damage was proximately caused, in whole or in part, by Plaintiff's own failure to mitigate its damages.

**ELEVENTH AFFIRMATIVE DEFENSE**  
**(Laches)**

Without admitting the allegations of the Complaint or that Plaintiff has suffered any damages, World Fuel alleges and asserts that Plaintiff's action is barred under the doctrine of laches.

**TWELFTH AFFIRMATIVE DEFENSE**  
**(Unclean Hands)**

Without admitting the allegations of the Complaint or that Plaintiff has suffered any damages, World Fuel alleges and asserts that Plaintiff's action is barred under the doctrine of unclean hands.

**THIRTEENTH AFFIRMATIVE DEFENSE**  
**(*In Pari Dilecto*)**

Without admitting the allegations of the Complaint or that Plaintiff has suffered any damages, World Fuel alleges and asserts that Plaintiff's action is barred under the doctrine of *in pari dilecto*.

**FOURTEENTH AFFIRMATIVE DEFENSE**  
**(Third Party Responsibility)**

Without admitting the allegations of the Complaint, World Fuel alleges and asserts that the Complaint, and each purported cause of action contained therein, is barred because Plaintiff's damages, if any, were caused, in whole or in part, by third parties for whom World Fuel has no responsibility.

WHEREFORE, having fully answered Evergreen Vintage Aircraft, Inc.'s adversary complaint, World Fuel prays as follows:

1. That Plaintiff's Complaint, and all claims for relief therein, be denied and dismissed with prejudice.
2. For judgment in World Fuel's favor and for its attorney fees, costs and disbursements.

DATED this 18<sup>th</sup> day of June, 2015.

KILMER VOORHEES & LAURICK, P.C.

/s/ James P. Laurick

James P. Laurick, OSB No. 821530

[jlaurick@kilmerlaw.com](mailto:jlaurick@kilmerlaw.com)

Graham M. Sweitzer, OSB No. 025866

[gsweitzer@kilmerlaw.com](mailto:gsweitzer@kilmerlaw.com)

Attorneys for World Fuel Services, Inc.

I:\10213\0001\Pleadings\BK EVERGREEN VINTAGE - ADVERSARY\Answer.docx